

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GUILLERMO AREVALO, *on behalf of
himself and others similarly situated,*

Plaintiff,

v.

RTG FURNITURE CORPORATION,
RTG FURNITURE CORPORATION
OF GEORGIA, RTG FURNITURE
CORPORATION OF TEXAS, ROOMS
TO GO LOUISIANA CORPORATION,
ROOMS TO GO MISSISSIPPI
CORPORATION, ROOMS TO GO
ALABAMA CORPORATION, ROOMS
TO GO NORTH CAROLINA
CORPORATION, ROOMS TO GO
TENNESSEE CORPORATION,

Defendants.

Civil Action File No.:

COMPLAINT

Plaintiff Guillermo Arevalo (“Mr. Arevalo”) states his complaint against the above-named Defendants as follows.

1. This is a complaint for unpaid overtime wages under the Fair Labor Standards Act (“FLSA”).

2. Mr. Arevalo files this complaint as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of himself and other similarly-situated individuals. Mr. Arevalo's Consent to Join form is filed contemporaneously with this complaint.
3. This Court has jurisdiction over Mr. Arevalo's claims, and venue is proper in this Court.
4. Mr. Arevalo is a resident of Gwinnett County, Georgia. He submits to the jurisdiction of the Court.
5. Defendant RTG Furniture Corporation is a Florida Corporation that owns and operates "Rooms to Go" furniture stores in Georgia, Florida, Alabama, Texas, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and Puerto Rico. RTG Furniture Corporation's principal address is 11540 US Highway 92 East, Seffner, Florida 33584.
6. According to publicly available information, RTG Furniture Corporation has the following officers and directors:
 - Lewis Stein ("Stein") – Director, Vice President, Secretary, and Treasurer
 - Steve Buckley ("Buckley") – President
 - Jamie Sheer ("Sheer") – Vice President and Assistant Secretary
 - Jeffrey Finkel ("Finkel") – Vice President

- Peter Weitzner (“Weitzner”) – Vice President and Director
7. RTG Furniture Corporation can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.
 8. Defendant RTG Furniture Corporation of Georgia is a Florida Corporation and, upon information and belief, is either a subsidiary of or shares common ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, the principal office of RTG Furniture Corporation of Georgia is also located at 11540 US Highway 92 East, Seffner, Florida 33584.
 9. Moreover, according to publicly available information, RTG Furniture Corporation of Georgia has the following officers and directors in common with the other Defendants in this case:
 - Sheer – Chief Financial Officer, Vice President, and Assistant Secretary
 - Finkel – Vice President, Secretary, and Treasurer
 - Stein – Director and Vice President
 - Weitzner – Vice President
 - Jeffrey Seaman (“Seaman”) – Director, President, and Chief Executive Officer

10. RTG Furniture Corporation of Georgia can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.
11. Defendant Rooms to Go Louisiana Corporation is a Nevada Corporation and, upon information and belief, is either a subsidiary of or shares common ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, Rooms to Go Louisiana Corporation's principal office is also located at 11540 US Highway 92 East, Seffner, Florida 33584.
12. Moreover, according to publicly available information, Rooms to Go Louisiana Corporation has the following officers and directors in common with the other Defendants in this case:
 - Seaman – Director
 - Stein – President, Treasurer, Secretary, and Director
 - Sheer – Secretary and Vice President
 - Weitzner – Vice President
 - Finkel – Vice President

13. Rooms to Go Louisiana Corporation can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.
14. Defendant Rooms to Go Mississippi Corporation is a Nevada Corporation and, upon information and belief, is either a subsidiary of or shares common ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, Rooms to Go Mississippi Corporation's principal office is also located at 11540 US Highway 92 East, Seffner, Florida 33584.
15. Moreover, according to publicly available information, Rooms to Go Mississippi Corporation has the following officers and directors in common with the other Defendants in this case:
 - Stein – Director, Assistant Secretary, and President
 - Weitzner – Director and Vice President
 - Sheer – Assistant Secretary and Vice President
 - Finkel – Vice President
16. Rooms to Go Mississippi Corporation can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.

17. Defendant Rooms to Go Alabama Corporation is a Florida Corporation and, upon information and belief, is either a subsidiary of or shares common ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, Rooms to Go Alabama Corporation's principal office is also located at 11540 US Highway 92 East, Seffner, Florida 33584.
18. Moreover, according to publicly available information, Rooms to Go Alabama Corporation has the following officers and directors in common with the other Defendants in this case:
 - Seaman – Director and President
 - Finkel – Vice President, Secretary, and Treasurer
 - Stein – Director and Vice President
 - Weitzner – Vice President
 - Sheer – Vice President and Assistant Secretary
19. Rooms to Go Alabama Corporation can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.
20. Defendant RTG Furniture Corporation of Texas is a Delaware Corporation and, upon information and belief, is either a subsidiary of or shares common

ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, RTG Furniture Corporation of Texas's principal office is also located at 11540 US Highway 92 East, Seffner, Florida 33584.

21. Moreover, according to publicly available information, RTG Furniture Corporation of Texas has the following officers and directors in common with the other Defendants in this case:
 - Finkel – Senior Vice President, Secretary, and Treasurer
 - Stein – Vice President and Director
 - Sheer – Assistant Secretary and Vice President
 - Seaman – President and Director
22. RTG Furniture Corporation of Texas can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.
23. Defendant Rooms to Go North Carolina Corporation is a Florida Corporation and, upon information and belief, is either a subsidiary of or shares common ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, Rooms to Go North Carolina Corporation's principal office is also located at 11540 US Highway 92 East,

Seffner, Florida 33584.

24. Moreover, according to publicly available information, Rooms to Go North Carolina Corporation has the following officers and directors in common with the other Defendants in this case:

- Seaman – Director and President
- Finkel – Vice President, Secretary, and Treasurer
- Stein – Director and Vice President
- Weitzner – Vice President
- Sheer – Vice President and Assistant Secretary

25. Rooms to Go North Carolina Corporation can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.

26. Defendant Rooms to Go Tennessee Corporation is a Florida Corporation and, upon information and belief, is either a subsidiary of or shares common ownership and control with RTG Furniture Corporation and the other Defendants in this case. For instance, Rooms to Go Tennessee Corporation's principal office is also located at 11540 US Highway 92 East, Seffner, Florida 33584.

27. Moreover, according to publicly available information, Rooms to Go Tennessee Corporation has the following officers and directors in common with the other Defendants in this case:
- Seaman – Director and President
 - Finkel – Vice President, Secretary, and Treasurer
 - Stein – Director and Vice President
 - Weitzner – Vice President
 - Sheer – Vice President and Assistant Secretary
28. Rooms to Go Tennessee Corporation can be served with the summons and complaint at the offices of its Vice President, Finkel, at 400 Perimeter Center Terrace, Suite 800, Atlanta, Georgia 30346.
29. The Defendants in this case, along with other corporate entities, comprise an enterprise commonly known as Rooms to Go, one of the nations' largest furniture retailers (hereinafter referred to as "Rooms to Go").
30. According to publicly available information, Rooms to Go operates over 200 retail stores in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and Puerto Rico.
31. Rooms to Go also operates numerous distribution centers to warehouse products for and distribute products to its retail stores.

32. Rooms to Go operates distribution centers in Alabama, Florida, Georgia, Louisiana, Tennessee, Texas, and North Carolina, among other states.
33. Mr. Arevalo is currently employed as a supervisor at the Rooms to Go distribution center in Suwanee, Georgia. He has been employed in this position since 1999.
34. As a supervisor, prior to January 1, 2017, Rooms to Go paid Mr. Arevalo using the so-called “fluctuating workweek” method, under which Mr. Arevalo was supposed to receive a set rate of pay per week no matter the number of hours he worked, plus half of his regular hourly rate for each working hour over 40 per week.
35. Mr. Arevalo routinely worked more than 40 hours per week.
36. For weeks during which Mr. Arevalo worked more than 40 hours, due to Rooms to Go’s use of the fluctuating workweek method, Mr. Arevalo received only half-time, instead of time-and-a-half, of his regular hourly rate for each working hour over 40.
37. At various times during his employment as a supervisor, Mr. Arevalo worked both the “day shift” and the “night shift.”
38. For any week during which Mr. Arevalo worked the night shift, Rooms to Go paid him a “shift bonus” of \$50 per week. Thus, if Mr. Arevalo worked the

night shift during any given week, he received the \$50 shift bonus, and if he did not work the night shift during any given week, he did not receive the \$50 shift bonus.

39. Rooms to Go also paid Mr. Arevalo a weekly “survey bonus” in varying amounts. The amount of the survey bonus was determined by the number of positive customer satisfaction surveys received by the company.
40. Because of Rooms to Go’s payment of shift and survey bonuses, Mr. Arevalo was not guaranteed the same rate of pay regardless of the number of hours he worked. Instead, under Rooms to Go’s compensation policy, his weekly pay fluctuated depending on whether he worked the night shift during a given week and whether he received a survey bonus.
41. According to applicable U.S. Department of Labor regulations, the shift and survey bonuses paid by Rooms to Go invalidated the company’s fluctuating workweek method of compensation. Therefore, Mr. Arevalo was entitled to time-and-a-half, not half-time, of his regular hourly rate for each of his working hours over 40 per week.
42. Rooms to Go stopped using the fluctuating workweek method to compensate its distribution center supervisors on December 31, 2016.

43. Beginning January 1, 2017, Rooms to Go began paying its distribution center supervisors on an hourly basis.
44. Therefore, since January 1, 2017, Mr. Arevalo receives 1.5 times his regular hourly rate for each of his working hours over 40 per week.
45. Prior to January 1, 2017, Rooms to Go compensated all supervisors in its distribution centers using the same fluctuating workweek method of compensation.
46. Prior to January 1, 2017, Rooms to Go paid all supervisors in its distribution centers a \$50 weekly shift bonus for working the night shift.
47. Prior to January 1, 2017, Rooms to Go paid all supervisors in its distribution centers a survey bonus if they met the criteria to receive the bonus.
48. Upon information and belief, Rooms to Go uses separate legal entities to operate its various distribution centers.
49. For example, Mr. Arevalo receives paychecks from Defendant RTG Furniture Corporation of Georgia. Thus, upon information and belief, Rooms to Go's distribution centers in Georgia are operated by Defendant RTG Furniture Corporation of Georgia.
50. Similarly, upon information and belief, Rooms to Go's distribution centers in Florida are operated by Defendant RTG Furniture Corporation.

51. Upon information and belief, Rooms to Go's distribution centers in Alabama are operated by Defendant Rooms to Go Alabama Corporation.
52. Upon information and belief, Rooms to Go's distribution centers in North Carolina are operated by Defendant Rooms to Go North Carolina Corporation.
53. Upon information and belief, Rooms to Go's distribution centers in Tennessee are operated by Defendant Rooms to Go Tennessee Corporation.
54. Upon information and belief, Rooms to Go's distribution centers in Mississippi are operated by Defendant Rooms to Go Mississippi Corporation.
55. Upon information and belief, Rooms to Go's distribution centers in Louisiana are operated by Defendant Rooms to Go Louisiana Corporation.
56. Upon information and belief, Rooms to Go's distribution centers in Texas are operated by Defendant RTG Furniture Corporation of Texas.
57. Despite being operated by different entities, Rooms to Go's distribution centers share supervisors and other employees. For example, during his employment with Rooms to Go, Mr. Arevalo was frequently required to travel to and work at Rooms to Go distribution centers in other states.
58. Rooms to Go has a common practice of requiring supervisors to travel to and work at out-of-state distribution centers (i.e., distribution centers outside the employee's home state) based on company need.

59. Additionally, as described in paragraphs 5 through 28, despite being operated by different entities, Rooms to Go's distribution centers share common officers and directors.
60. Additionally, as described in paragraphs 5 through 28, the various entities that operate Rooms to Go's distribution centers have common ownership.
61. Thus, for purposes of the FLSA, the Defendants in this case jointly employ Mr. Arevalo and other supervisors employed at Rooms to Go's various distribution centers.
62. COUNT 1 – Due to their application of an invalid fluctuating workweek method of compensation, Defendants violated the FLSA by failing to pay Mr. Arevalo and other distribution center supervisors 1.5 times their regular rate of pay for each working hour over 40 per week.
63. Defendants' violation of the FLSA described above was willful.

Based on the above facts, Mr. Arevalo requests a jury trial on all triable issues and asks the Court for the following relief for himself and all other Rooms to Go distribution center supervisors who opt in as plaintiffs in this lawsuit: unpaid overtime wages, liquidated damages as permitted by the FLSA, prejudgment interest, litigation costs, attorneys' fees, and other relief deemed appropriate by the Court.

Respectfully submitted on October 11, 2017.

s/ Regan Keebaugh
Regan Keebaugh
Georgia Bar No. 535500

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